Supreme Court, U.S.
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No. 79-1746

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1979

JOHN B. KILROY, SR.,
Petitioner,

v.

DOUGLAS M. COSTLE, in his official capacity as Administrator of the United States Environmental Protection Agency; UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; PAUL DEFALCO, JR., in his official capacity as Regional Administrator, Region IX, United States Environmental Protection Agency; THE STATE WATER RESOURCES CONTROL BOARD; JOHN E. BRYSON, in his official capacity as Chairman of the State Water Resources Control Board; REGION IV OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD; and RAYMOND M. HERTEL, in his official capacity as Executive Officer of Region IV of the California Regional Water Quality Control Board,
Respondents.

PETITIONER'S SUPPLEMENTAL BRIEF

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PETITIONER'S SUPPLEMENTAL BRIEF

In a prior decision directly related to this matter, *Costle v. Pacific Legal Foundation*, 48 U.S.L.W. 4243 (1980), this Court indicated that petitioner Kilroy was not being disadvantaged by the refusal of the Environmental Protection Agency (EPA) to provide him with an opportunity to be heard because August, 1980, was the "outside date" by

which new permit proceedings involving the public, including Kilroy, would have to occur. The Court, therefore, concluded that any potential for EPA to "evade further public scrutiny" "was a limited one" and "any additional extension for purposes of avoiding further hearings on the permit's compliance schedule would have little practical impact." 48 U.S.L.W. at 4249 n.14.

The Court's attention is respectfully directed to the fact that the August, 1980, "outside date for extensions of the 1975 permit" has arrived. EPA has conducted no public hearings on the permit. EPA has not scheduled any public hearings or other form of public participation on the permit requirements. Instead, EPA continues to ignore the statutory requirements and to "evade further public scrutiny" while pressuring the City of Los Angeles to accede to EPA's demands for its sludge project. Despite the passage of the date recognized by this Court as the "outside date" to allow Kilroy to participate on the permit requirements, EPA continues to frustrate all public participation and to evade the public scrutiny requirements of both the Federal Water Pollution Control Act and the National Environmental Policy Act. In the meantime, EPA is imposing on the citizens of Los Angeles project requirements which will cause significant adverse effects on the Los Angeles environment. Petitioner Kilroy respectfully urges the Court that, in light of the clear intent now demonstrated by EPA to continue indefinitely to "extend" an expired permit in order to avoid public disclosure of the adverse consequences of its project, the decision by the Court of Appeal must be reversed with instructions that an injunction

be entered prohibiting EPA from requiring the implementation of its sludge disposal project until an adequate environmental impact statement has been prepared.

Respectfully submitted,

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